

APPEAL NO. 042117  
FILED OCTOBER 8, 2004

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on August 12, 2004. The hearing officer resolved the disputed issues by deciding that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the third (January 30 through April 29, 2004), fourth (April 30 through July 29, 2004), or fifth (July 30 through October 28, 2004) quarters. The claimant appealed, disputing the determination of nonentitlement. The respondent (carrier) responded, urging affirmance.

DECISION

Affirmed.

Eligibility criteria for SIBs entitlement are set forth in Section 408.142(a) and Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 130.102 (Rule 130.102). The parties stipulated to the eligibility criteria of a compensable injury, impairment rating, no commutation of impairment income benefits, that the qualifying period for the third quarter was from October 18, 2003, through January 16, 2004, that the qualifying period for the fourth quarter was from January 17 through April 16, 2004, and that the qualifying period for the fifth quarter was from April 17 through July 16, 2004. At issue is the requirement of Section 408.142(a)(4) and Rule 130.102(b)(2) that the claimant has made a good faith effort to obtain employment commensurate with his ability to work.

The claimant proceeds on the basis that he has made a good faith effort to obtain employment commensurate with his ability to work by complying with Rules 130.102(d)(5) and (e). The hearing officer's determination on the direct result requirement has not been appealed. Rule 130.102(d)(5) provides, in pertinent part, that an injured employee has made the required good faith effort if the employee "has provided sufficient documentation as described in subsection (e) of this section to show that he or she has made a good faith effort to obtain employment." Subsection (e) further provides that the injured worker "who is able to return to work in any capacity shall look for employment commensurate with his or her ability to work every week of the qualifying period and document his or her job search efforts." The hearing officer found that the claimant did not conduct a job search every week during the qualifying periods for the third and fourth quarters. Additionally, the hearing officer found that the claimant did not have a well-structured job plan for conducting his job search in either the third, fourth, or fifth quarters. The hearing officer found that the claimant did not attempt in good faith to obtain employment commensurate with his ability to work in any of the disputed quarters.

Whether a claimant satisfied the good faith requirement for SIBs entitlement is a factual question for the hearing officer to resolve. Texas Workers' Compensation Commission Appeal No. 94150, decided March 22, 1994. The hearing officer is the sole judge of the relevance, materiality, weight, and credibility of the evidence presented at the hearing. Section 410.165(a). We conclude that the hearing officer's decision is supported by sufficient evidence and that it is not so against the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175 (Tex. 1986).

We affirm the decision and order of the hearing officer.

The true corporate name of the insurance carrier is **ARCH INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
350 NORTH ST. PAUL STREET  
DALLAS, TEXAS 75201.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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Chris Cowan  
Appeals Judge

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Edward Vilano  
Appeals Judge